HOUSE BILL No. 1352

DIGEST OF INTRODUCED BILL

Citations Affected: IC 28-1-11-3.2; IC 28-5-1-6.3; IC 28-6.1-6-24; IC 28-7-1-9.2; IC 28-15-2-2.

Synopsis: Parity for state chartered financial institutions. Amends Indiana Code provisions allowing the following state chartered financial institutions to exercise, in certain circumstances, the same rights and privileges granted to nationally chartered institutions: (1) Banks. (2) Industrial loan and investment companies. (3) Savings banks. (4) Credit unions. (5) Savings associations. Allows the department of financial institutions (department) to deny, under certain circumstances, the rights and privileges requested by a state chartered institution. (Current law provides that the department may act through its members to deny the requested rights and privileges.) Adds the following to the circumstances justifying the department's denial of the requested rights and privileges: (1) A finding that the exercise of the rights and privileges would result in an unacceptable curtailment of consumer protection. (2) A finding that a denial of the rights and privileges will not result in a competitive disadvantage to the requesting institution. Provides that in deciding whether to grant the same rights and privileges to all state chartered institutions of the same type as the requesting institution, the department must ensure that the exercise of the rights and privileges by all institutions will not unduly constrain Indiana consumer protection provisions.

Effective: July 1, 2007.

Bardon

January 16, 2007, read first time and referred to Committee on Financial Institutions.



First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in this style type, and deletions will appear in this style type.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or *this style type* reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

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HOUSE BILL No. 1352

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A BILL FOR AN ACT to amend the Indiana Code concerning financial institutions.

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Be it enacted by the General Assembly of the State of Indiana:

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1	SECTION 1. IC 28-1-11-3.2 IS AMENDED TO READ AS
2	FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3.2. (a) As used in this
3	section, "rights and privileges" means the power:

(1) to:

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- (A) create;
 - (B) deliver;
- (C) acquire; or
- (D) sell;
 - a product, a service, or an investment that is available to or offered by; or
 - (2) to engage in other activities authorized for;
- national banks domiciled in Indiana.
 - (b) A bank that intends to exercise any rights and privileges that are:
- 14 (1) granted to national banks; but
- (2) not authorized for banks under the Indiana Code (except for
 this section) or any rule adopted under the Indiana Code;
 - shall submit a letter to the department describing in detail the requested



1	rights and privileges granted to national banks that the bank intends to
2	exercise. If available, copies of relevant federal law, regulations, and
3	interpretive letters must be attached to the letter submitted by the bank.
4	(c) The department shall promptly notify the requesting bank of the
5	department's receipt of the letter submitted under subsection (b).
6	Except as provided in subsection (e), the bank may exercise the
7	requested rights and privileges sixty (60) days after the date on which
8	the department receives the letter unless otherwise notified by the
9	department.
10	(d) The department through its members, may prohibit the bank
11	from exercising deny the requested rights and privileges only if the
12	members find department finds that:
13	(1) national banks domiciled in Indiana do not possess the
14	requested rights and privileges; or
15	(2) the exercise of the requested rights and privileges by the bank
16	would adversely affect the safety and soundness of the bank;
17	(3) the exercise of the requested rights and privileges by the
18	bank would result in an unacceptable curtailment of
19	consumer protection; or
20	(4) the failure of the department to approve the requested
21	rights and privileges will not result in a competitive
22	disadvantage to the bank.
23	(e) The sixty (60) day period referred to in subsection (c) may be
24	extended by the department based on a determination that the bank's
25	letter raised issues requiring additional information or additional time
26	for analysis. If the sixty (60) day period is extended under this
27	subsection, the bank may exercise the requested rights and privileges
28	only if the bank receives prior written approval from the department.
29	However:
30	(1) the members department must:
31	(A) approve or deny the requested rights and privileges; or
32	(B) convene a hearing;
33	not later than sixty (60) days after the department receives the
34	bank's letter; and
35	(2) if a hearing is convened, the members department must
36	approve or deny the requested rights and privileges not later than
37	sixty (60) days after the hearing is concluded.
38	(f) The exercise of rights and privileges by a bank in compliance
39	with and in the manner authorized by this section is not a violation of
40	any provision of the Indiana Code or rules adopted under IC 4-22-2.
41	(g) Whenever, in compliance with this section, If a bank exercises
42	receives approval to exercise the requested rights and privileges
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1	granted to national banks domiciled in Indiana, the department shall
2	determine whether all banks may exercise the same rights and
3	privileges. if In making the determination required by this
4	subsection, the department by order determines must ensure that the
5	exercise of the rights and privileges by all banks would will not:
6	(1) adversely affect their safety and soundness; or
7	(2) unduly constrain Indiana consumer protection provisions.
8	(h) If the department denies the request of a bank under this section
9	to exercise any rights and privileges that are granted to national banks,
10	the bank may appeal the decision of the department to the circuit court
11	with jurisdiction in the county in which the principal office of the bank
12	is located. In an appeal under this section, the court shall determine the
13	matter de novo.
14	SECTION 2. IC 28-5-1-6.3 IS AMENDED TO READ AS
15	FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6.3 (a) As used in this
16	section, "rights and privileges" means the power to:
17	(1) create;
18	(2) deliver;
19	(3) acquire; or
20	(4) sell;
21	a product, a service, or an investment that is available to or offered by
22	national banks domiciled in Indiana.
23	(b) An industrial loan and investment company that intends to
24	exercise any rights and privileges that are:
25	(1) granted to national banks; but
26	(2) not authorized for industrial loan and investment companies
27	under the Indiana Code (except for this section) or any rule
28	adopted under the Indiana Code;
29	shall submit a letter to the department describing in detail the requested
30	rights and privileges granted to national banks that the company
31	intends to exercise. If available, copies of relevant federal law,
32	regulations, and interpretive letters must be attached to the letter
33	submitted by the company.
34	(c) The department shall promptly notify the requesting company of
35	the department's receipt of the letter submitted under subsection (b).
36	Except as provided in subsection (e), the company may exercise the
37	requested rights and privileges sixty (60) days after the date on which
38	the department receives the letter unless otherwise notified by the
39	department.
40	(d) The department through its members, may prohibit the company
41	from exercising deny the requested rights and privileges only if the



members find department finds that:

1	(1) national banks domiciled in Indiana do not possess the
2	requested rights and privileges; or
3	(2) the exercise of the requested rights and privileges by the
4	company would adversely affect the safety and soundness of the
5	company;
6	(3) the exercise of the requested rights and privileges by the
7	company would result in an unacceptable curtailment of
8	consumer protection; or
9	(4) the failure of the department to approve the requested
10	rights and privileges will not result in a competitive
11	disadvantage to the company.
12	(e) The sixty (60) day period referred to in subsection (c) may be
13	extended by the department based on a determination that the
14	company's letter raised issues requiring additional information or
15	additional time for analysis. If the sixty (60) day period is extended
16	under this subsection, the company may exercise the requested rights
17	and privileges only if the company receives prior written approval from
18	the department. However:
19	(1) the members department must:
20	(A) approve or deny the requested rights and privileges; or
21	(B) convene a hearing;
22	not later than sixty (60) days after the department receives the
23	company's letter; and
24	(2) if a hearing is convened, the members department must
25	approve or deny the requested rights and privileges not later than
26	sixty (60) days after the hearing is concluded.
27	(f) The exercise of rights and privileges by a company in
28	compliance with and in the manner authorized by this section is not a
29	violation of any provision of the Indiana Code or rules adopted under
30	IC 4-22-2.
31	(g) Whenever, in compliance with this section, If a company
32	exercises receives approval to exercise the requested rights and
33	privileges granted to national banks domiciled in Indiana, the
34	department shall determine whether all industrial loan and
35	investment companies may exercise the same rights and privileges. if
36	In making the determination required by this subsection, the
37	department by order determines must ensure that the exercise of the
38	rights and privileges by all industrial loan and investment companies
39	would will not:
40	(1) adversely affect their safety and soundness; or
41	(2) unduly constrain Indiana consumer protection provisions.
42	(h) If the department denies the request of a company under this



1	section to exercise any rights and privileges that are granted to national
2	banks, the company may appeal the decision of the department to the
3	circuit court with jurisdiction in the county in which the principal
4	office of the company is located. In an appeal under this section, the
5	court shall determine the matter de novo.
6	SECTION 3. IC 28-6.1-6-24 IS AMENDED TO READ AS
7	FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 24. (a) As used in this
8	section, "rights and privileges" means the power to:
9	(1) create;
.0	(2) deliver;
.1	(3) acquire; or
2	(4) sell;
.3	a product, a service, or an investment that is available to or offered by
.4	national banks domiciled in Indiana.
. 5	(b) Subject to the conditions set forth in this section, a savings bank
.6	may exercise the rights and privileges that are or may be granted to
7	national banks domiciled in Indiana.
. 8	(c) A savings bank that intends to exercise any rights and privileges
9	that are:
20	(1) granted to national banks; but
21	(2) not authorized for a savings bank under the Indiana Code
22	(except for this section) or any rule adopted under the Indiana
23	Code;
24	shall submit a letter to the department describing in detail the requested
25	rights and privileges granted to national banks that the savings bank
26	intends to exercise. If available, copies of relevant federal law,
27	regulations, and interpretive letters must be attached to the letter
28	submitted by the company.
29	(d) The department shall promptly notify the requesting savings
30	bank of the department's receipt of the letter submitted under
51	subsection (c). Except as provided in subsection (f), the savings bank
32	may exercise the requested rights and privileges sixty (60) days after
33	the date on which the department receives the letter unless otherwise
34	notified by the department.
55	(e) The department through its members, may prohibit the savings
66	bank from exercising deny the requested rights and privileges only if
57	the members find department finds that:
88	(1) national banks domiciled in Indiana do not possess the
19	requested rights and privileges; or
10	(2) the exercise of the requested rights and privileges by the
1	savings bank would adversely affect the safety and soundness of



the savings bank;

1	(3) the exercise of the requested rights and privileges by the	
2	savings bank would result in an unacceptable curtailment of	
3	consumer protection; or	
4	(4) the failure of the department to approve the requested	
5	rights and privileges will not result in a competitive	
6	disadvantage to the savings bank.	
7	(f) The sixty (60) day period referred to in subsection (c) (d) may be	
8	extended by the department based on a determination that the savings	
9	bank's letter raised issues requiring additional information or additional	
.0	time for analysis. If the sixty (60) day period is extended under this	(
1	subsection, the savings bank may exercise the requested rights and	'
.2	privileges only if the savings bank receives prior written approval from	
.3	the department. However:	
.4	(1) the members department must:	
.5	(A) approve or deny the requested rights and privileges; or	
.6	(B) convene a hearing;	
.7	not later than sixty (60) days after the department receives the	`
. 8	savings bank's letter; and	
.9	(2) if a hearing is convened, the members department must	
20	approve or deny the requested rights and privileges not later than	
21 22	sixty (60) days after the hearing is concluded.	
23	(g) The exercise of rights and privileges by a savings bank in compliance with and in the manner authorized by this section is not a	
.3 24	violation of any provision of the Indiana Code or rules adopted under	
. 4 25	IC 4-22-2.	
.5 26	(h) Whenever, in compliance with this section, If a savings bank	
.0 27	exercises receives approval to exercise the requested rights and	•
28	privileges granted to national banks domiciled in Indiana, the	,
.0 !9	department shall determine whether all savings banks may exercise	
.9 80	the same rights and privileges. if In making the determination	•
51	required by this subsection, the department by order determines must	
32	ensure that the exercise of the rights and privileges by all savings	
33	banks would will not:	
54	(1) adversely affect their safety and soundness; or	
55	(2) unduly constrain Indiana consumer protection provisions.	
66	(i) If the department denies the request of a savings bank under this	
57	section to exercise any rights and privileges that are granted to national	
88	banks, the savings bank may appeal the decision of the department to	
19	the circuit court with jurisdiction in the county in which the principal	
10	office of the savings bank is located. In an appeal under this section,	
1	the court shall determine the matter de novo.	
12	SECTION 4 IC 28-7-1-9.2 IS AMENDED TO READ AS	



1	FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9.2. (a) As used in this
2	section, "rights and privileges" means the power:
3	(1) to:
4	(A) create;
5	(B) deliver;
6	(C) acquire; or
7	(D) sell;
8	a product, a service, or an investment that is available to or
9	offered by; or
0	(2) to engage in other activities authorized for;
.1	federal credit unions domiciled in Indiana.
2	(b) A credit union that intends to exercise any rights and privileges
3	that are:
4	(1) granted to federal credit unions; but
.5	(2) not authorized for credit unions under the Indiana Code
6	(except for this section) or any rule adopted under the Indiana
7	Code;
8	shall submit a letter to the department describing in detail the requested
9	rights and privileges granted to federal credit unions that the credit
20	union intends to exercise. If available, copies of relevant federal law,
21	regulations, and interpretive letters must be attached to the letter
22	submitted by the credit union.
23	(c) The department shall promptly notify the requesting credit union
24	of the department's receipt of the letter submitted under subsection (b).
25	Except as provided in subsection (e), the credit union may exercise the
26	requested rights and privileges sixty (60) days after the date on which
27	the department receives the letter unless otherwise notified by the
28	department.
29	(d) The department through its members, may prohibit the credit
0	union from exercising deny the requested rights and privileges only if
31	the members find department finds that:
32	(1) federal credit unions domiciled in Indiana do not possess the
3	requested rights and privileges; or
34	(2) the exercise of the requested rights and privileges by the credit
35	union would adversely affect the safety and soundness of the
66	credit union;
37	(3) the exercise of the requested rights and privileges by the
8	credit union would result in an unacceptable curtailment of
19	consumer protection; or
10	(4) the failure of the department to approve the requested
1	rights and privileges will not result in a competitive
12	disadvantage to the credit union.



1	(e) The sixty (60) day period referred to in subsection (c) may be
2	extended by the department based on a determination that the credit
3	union's letter raised issues requiring additional information or
4	additional time for analysis. If the sixty (60) day period is extended
5	under this subsection, the credit union may exercise the requested
6	rights and privileges only if the credit union receives prior written
7	approval from the department. However:
8	(1) the members department must:
9	(A) approve or deny the requested rights and privileges; or
10	(B) convene a hearing;
11	not later than sixty (60) days after the department receives the
12	credit union's letter; and
13	(2) if a hearing is convened, the members department must
14	approve or deny the requested rights and privileges not later than
15	sixty (60) days after the hearing is concluded.
16	(f) The exercise of rights and privileges by a credit union in
17	compliance with and in the manner authorized by this section is not a
18	violation of any provision of the Indiana Code or rules adopted under
19	IC 4-22-2.
20	(g) Whenever, in compliance with this section, If a credit union
21	exercises receives approval to exercise the requested rights and
22	privileges granted to federal credit unions domiciled in Indiana, the
23	department shall determine whether all credit unions may exercise
24	the same rights and privileges. if In making the determination
25	required by this subsection, the department by order determines must
26	ensure that the exercise of the rights and privileges by all credit unions
27	would will not:
28	(1) adversely affect their safety and soundness; or
29	(2) unduly constrain Indiana consumer protection provisions.
30	(h) If the department denies the request of a credit union under this
31	section to exercise any rights and privileges that are granted to federal
32	credit unions, the credit union may appeal the decision of the
33	department to the circuit court with jurisdiction in the county in which
34	the principal office of the credit union is located. In an appeal under
35	this section, the court shall determine the matter de novo.
36	SECTION 5. IC 28-15-2-2 IS AMENDED TO READ AS
37	FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) As used in this
38	section, "rights and privileges" means the power:
39	(1) to:
40	(A) create;
41	(B) deliver;
42	(C) acquire: or



1	(D) sell;
2	a product, a service, or an investment that is available to or
3	offered by; or
4	(2) to engage in other activities authorized for;
5	federal savings associations domiciled in Indiana.
6	(b) Subject to this section, savings associations may exercise the
7	rights and privileges that are granted to federal savings associations.
8	(c) A savings association that intends to exercise any rights and
9	privileges that are:
10	(1) granted to federal savings associations; but
11	(2) not authorized for savings associations under:
12	(A) the Indiana Code (except for this section); or
13	(B) a rule adopted under IC 4-22-2;
14	shall submit a letter to the department, describing in detail the
15	requested rights and privileges granted to federal savings associations
16	that the savings association intends to exercise. If available, copies of
17	relevant federal law, regulations, and interpretive letters must be
18	attached to the letter.
19	(d) The department shall promptly notify the requesting savings
20	association of its receipt of the letter submitted under subsection (c).
21	Except as provided in subsection (f), the savings association may
22	exercise the requested rights and privileges sixty (60) days after the
23	date on which the department receives the letter unless otherwise
24	notified by the department.
25	(e) The department through its members, may prohibit the savings
26	association from exercising deny the requested rights and privileges
27	only if the members find department finds that:
28	(1) federal savings associations in Indiana do not possess the
29	requested rights and privileges; or
30	(2) the exercise of the requested rights and privileges by the
31	savings association would adversely affect the safety and
32	soundness of the savings association;
33	(3) the exercise of the requested rights and privileges by the
34	savings association would result in an unacceptable
35	curtailment of consumer protection; or
36	(4) the failure of the department to approve the requested
37	rights and privileges will not result in a competitive
38	disadvantage to the savings association.
39	(f) The sixty (60) day period referred to in subsection (d) may be
40	extended by the department based on a determination that the savings
41	association letter raises issues requiring additional information or
42	additional time for analysis. If the sixty (60) day period is extended



1	under this subsection, the savings association may exercise the	
2	requested rights and privileges only if the savings association receives	
3	prior written approval from the department. However:	
4	(1) the members department must:	
5	(A) approve or deny the requested rights and privileges; or	
6	(B) convene a hearing;	
7	not later than sixty (60) days after the department receives the	
8	savings association's letter; and	
9	(2) if a hearing is convened, the members department must	
10	approve or deny the requested rights and privileges not later than	
11	sixty (60) days after the hearing is concluded.	
12	(g) The exercise of rights and privileges by a savings association in	
13	compliance with and in the manner authorized by this section does not	
14	constitute a violation of any provision of the Indiana Code or rules	
15	adopted under IC 4-22-2.	_
16	(h) Whenever, in compliance with this section, If a savings	
17	association exercises receives approval to exercise the requested	
18	rights and privileges granted to national savings associations domiciled	
19	in Indiana, the department shall determine whether all savings	
20	associations may exercise the same rights and privileges. if In making	
21	the determination required by this subsection, the department by	
22	order determines must ensure that the exercise of the rights and	
23	privileges by all savings associations would will not:	
24	(1) adversely affect their safety and soundness; or	_
25	(2) unduly constrain Indiana consumer protection provisions.	
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